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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/702,418	11/06/2003	David J. Socha JR.	MTU-20902/01	8355

7590 03/15/2005

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EXAMINER

EDELL, JOSEPH F

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 03/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/702,418

Applicant(s)

SOCHA ET AL.

Examiner

Joseph F Edell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 March 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 02 March 2005 has been entered.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Prior Art of the Instant Application in view of U.S. Patent No. 2,806,515 to Burst.

Prior Art of the Instant Application discloses a nesting chair that is basically the same as that recited in claims 1-35 except the seat base lacks at least one transverse member solely connected to and supporting the L-shaped back support bracket. See Figures 1 and 2 of the Prior Art of the Instant Application for the teaching that the nesting chair has a self supporting seat base with first and second leg members each

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formed from a continuous piece of tubing and including a front leg portion, a rear leg portion, and a generally horizontal portion, a seat cushion with a front, a rear, and a pair of side edges, a generally L-shaped back support bracket with first horizontal and second vertical ends, and a seat back connected to the second end of the back support bracket wherein the leg portions have lower floor contacting ends and opposite upper ends, the leg members are symmetrically arranged on opposite ends of a central plane, the horizontal portions of the leg members each include a central region being closest to the central plane and front and rear sections angling outwardly away from the central plane, the seat cushion has an underside defining a horizontal plane with the seat base being entirely disposed below the horizontal plane, and the back support bracket being sufficiently flexible that the seat back may flex with respect to the seat cushion when leaned on. Burst shows a chair similar to that of the Prior Art of the Instant Application wherein the chair has first and second leg members 12,15 (Fig. 2) each including a front leg portion, a rear leg portion, and a horizontal portion, a seat 11 (Fig. 2) with a front, a rear, and a pair of side edges, a pair of parallel transverse members 16,17 (Fig. 3) with one transverse member extending between and interconnecting the horizontal portions of the leg members and also disposed forward the rear edge of the seat and extending between rear sections of the horizontal portions of the leg members, and an L-shaped support bracket 18 (Fig. 1) with a horizontal end (Fig. 3) non-rotatably connected solely to and support by both of the transverse members. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Prior Art of the Instant Application such that the nesting chair has a pair of

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parallel transverse members with one transverse member extending between and interconnecting the horizontal portions of the leg members and also disposed forward the rear edge of the seat cushion and extending between the rear sections of the horizontal portions of the leg members, and the first horizontal end and the L-shaped support bracket being non-rotatably connected solely to and support by both of the transverse members, such as the chair disclosed in Burst. One would have been motivated to make such a modification in view of the suggestion in Burst that the transverse members provide a novel means for securing the back support bracket with an effective reinforcing arrangement making the structure practically unitary via the welding of back support bracket solely to the transverse members.

### ***Response to Arguments***

4. Applicant's arguments with respect to claims 1-35 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to nesting chairs:


U.S. Pat. No. 2,558,022 to Wallance      U.S. Des. Pat. No. 161,177 to Harrison

U.S. Pat. No. 3,057,661 to Moxley      U.S. Pat. No. 3,724,897 to Faiks et al.

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (703) 605-1216. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Joe Edell  
March 8, 2005